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4 Hon. James L. Robart
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON AT SEATTLE
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10 RICHARD J. FULTON,
11 Plaintiff,

12 vs.
13 LIVINGSTON FINANCIAL, LLC, and
14 NELSON & KENNARD,
15 Defendants.

No. 15-00574

DECLARATION OF JOHN P. RYAN
IN SUPPORT OF DEFENDANT'S
OPPOSITION TO PLAINTIFF'S
MOTION FOR AWARD OF
ATTORNEY'S FEES AND COSTS

16 John P. Ryan declares as follows:
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18 1. I certify that I am counsel for the Defendant. I also certify that I am of legal age
19 and competent to testify to the matters contained herein. If called to do so, I would testify to
20 their truthfulness. I have personal knowledge of the facts contained in this declaration unless
21 otherwise qualified or stated.

22 2. Prior to my involvement, Plaintiff provided an initial demand of \$115,000 to
23 Robert Scott Kennard on May 23, 2015.

24 3. Thereafter, Defendants provided Plaintiff with two offers of judgment. The first
25 offer of judgment was made in July of 2015 for \$2,000 plus reasonable fees and costs. The
offer of judgment was made in August of 2015 for \$5,000 plus reasonable fees and
costs.

26 DECLARATION OF JOHN P. RYAN IN SUPPORT
27 DEFENDANTS' OPPOSITION TO PLAINTIFF'S
28 MOTION FOR AN AWARD OF ATTORNEY'S FEES
29 AND COSTS

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4. Plaintiff lowered his demand to \$65,000 in October of 2015 and Defendants responded by offering Plaintiff \$10,000 to resolve this matter.

5. Plaintiff eventually lowered his demand to \$59,000 on October 21, 2015. Defendants' Counsel requested that Plaintiff's Counsel provide a breakdown of Plaintiff's demand between damages and attorney's fees/costs on October 30, 2015. Plaintiff responded on October 30, 2015, and refused to provide such a break-down, because Plaintiff believed that Defendants might use the information to make an offer of judgment.

6. Had Plaintiff made reasonable demands at the outset or been willing to apportion his demand between fees/costs and damages, the matter likely could have been resolved without most of the litigation for which Plaintiff now seeks attorneys' fees.

7. According to Plaintiff's counsel's billing records he only had 24.8 hours billed up through October 21, 2015. Further, he only had a total of 37.4 hours billed up through October 30, 2015. At a rate of \$250 per hour, 24.8 hours equals \$6,200 and 37.4 hours is equivalent to \$9,350.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, to the best of my knowledge.

Executed this 9th day of May, 2016 in Chicago, IL.

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John P. Ryan

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